

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

14 TRANSCRIPT OF PROCEEDINGS HAD MAGISTRATE JUDGE
15 WILLIAM H. BAUGHMAN, JR., MAGISTRATE JUDGE
16 OF SAID COURT, ON THURSDAY, DECEMBER 21ST, 2016,
17 COMMENCING AT 3:00 O'CLOCK P.M.

21 Court Reporter: GEORGE J. STAIDUHAR
22 801 W. SUPERIOR AVE.,
23 SUITE 7-184 CLEVELAND, OHIO 44113
(216) 357-7128

1 APPEARANCES:

2 On behalf of the Government:

3 OFFICE OF THE U.S. ATTORNEY
4 BY: DUNCAN BROWN, AUSA
OM KAKANI, AUSA
5 801 West Superior Ave., Suite 400
Cleveland, OH 44113

6 On behalf of Defendant Bogdan Nicolescu:

7 RODGER PELAGALLI, ESQ.
Suite 401
8 6659 Pearl Road
Parma Hts., OH 44130
9

10 On behalf of Defendant Radu Miclaus:

11 LIPSON O'SHEA
12 BY: MICHAEL J. O'SHEA, ESQ.
110 Hoyt Block Building
700 West St. Clair Avenue
13 Cleveland, OH 44113

14 On behalf of Defendant Tiberiu Danet:

15 RONALD FREY, ESQ.
Suite 1300
16 600 Superior Avenue, E
Cleveland, OH 44114
17

18 Also present as the Interpreter:

19 Gabriella Copariu
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1 P R O C E E D I N G S

2 THE COURT: Call the case.

3 (Cases called.)

4 THE COURT: Counsel for the United States,
5 are you ready to proceed?

6 MR. BROWN: Yes, your Honor.

7 For the United States, Duncan Brown and
8 Om Kakani. Good afternoon.

9 THE COURT: And let's see, counsel for
10 Mr. Nicolescu?

11 MR. PELAGALLI: Rodger Pelagalli.

12 THE COURT: Good afternoon.

13 For Mr. Danet?

14 MR. FREY: Attorney Ron Frey on behalf of
15 Mr. Danet.

16 THE COURT: And Mr. Miclaus, it is
17 Mr. O'Shea, who is en route we hope. We do have an
18 interpreter here, and welcome.

19 And could you please take the interpreter's
20 oath?

21 (Interpreter was administered an oath, and
22 the following discussion was held:)

23 THE COURT: All right. The Defendants, they
24 are in the holding cell?

25 DEPUTY CLERK: They are on their way up.

1 THE COURT: They are on their way up. All
2 right.

3 Well, let's get a preview of what we are
4 going to do today.

5 MR. BROWN: Your Honor, the Government
6 has moved for detention both under risk of flight
7 and also danger to the community grounds.

8 If we go forward on the hearing, we will be
9 putting forward one witness, Ann Murphy of the
10 United States Marshal Service, who accompanied at least
11 two of the Defendants back to the United States and the
12 process they had to go through.

13 The Government will argue that there are no
14 conditions or factors that would ensure their return as
15 outlined in the Pretrial Services reports. We would move
16 to adopt those.

17 We also proffer the indictment for risk to
18 the community.

19 THE COURT: All right. Okay.

20 We can bring in the two Defendants whose
21 counsel is here.

22 (Discussion held off the record.)

23 MR. PELAGALLI: If we may, your Honor,
24 discuss for one moment?

25 THE COURT: Are we going to have any

1 | waivers?

2 | (Pause.)

3 MR. PELAGALLI: After consultation with both
4 the AUSA and my client, he has agreed to, at this point,
5 to waive with the condition if there is a change of
6 circumstance, we would revisit this circumstance
7 somewhere down the road, your Honor.

8 MR. FREY: Thank you, Ron Frey.

I have Mr. Danet. Following conversations
with the United States Attorney as well as my client
in detail, we also would waive the hearing at this
time.

13 THE COURT: All right. We will get you the
14 forms and make sure you write in you're reserving your
15 right to have it at a later time, and we will take care
16 of those waivers.

17 This will give Mr. O'Shea a chance to get
18 here and deal with that.

19 MR. FREY: Thank you, your Honor.

20 | THE COURT: Thank you.

21 | (Pause.)

THE COURT: Let's start with Mr. Nicolescu.

23 You have a right to have a hearing to
24 determine if you should remain in custody pending further
25 order of the Court. You have tendered a waiver of that

1 right reserving your right to have the hearing at a later
2 time if there is a change of circumstances.

3 Now, you understand you have the right to
4 the hearing?

5 THE INTERPRETER: Yes, your Honor.

6 THE COURT: And is that your signature on
7 the waiver form?

8 THE INTERPRETER: Yes.

9 THE COURT: And did you discuss the waiver
10 form with Mr. Pelagalli and with the assistance of the
11 interpreter?

12 THE INTERPRETER: Yes.

13 THE COURT: And you understand the form, and
14 you understand that you are waiving your right or reserve
15 your right to have a hearing at a later time.

16 THE INTERPRETER: Yes.

17 THE COURT: Your waiver of the detention
18 hearing with the reservations accepted.

19 I am remanding you to the custody of the
20 United States Marshal on behalf of the Court. I will
21 sign the detention order.

22 Mr. Danet, you have the right to a hearing
23 to determine if you should remain in custody pending
24 further order of the Court. You have signed a waiver of
25 that right reserving your right to have a hearing at a

1 later time.

2 Do you understand your right to a detention
3 hearing?

4 DEFENDANT DANET: Yes, your Honor.

5 THE COURT: Do you understand that you are
6 reserving your right to have it at a later time?

7 DEFENDANT DANET: Yes, sir.

8 THE COURT: And is that your signature on
9 the waiver form?

10 DEFENDANT DANET: Yes, sir.

11 THE COURT: And did you consult with
12 Mr. Frey before signing the form?

13 DEFENDANT DANET: Yes, I did.

14 THE COURT: Your waiver of detention hearing
15 with reservations accepted. I will sign that also, and I
16 am remanding you to the custody of the United States
17 Marshal pursuant to the detention orders.

18 MR. FREY: Thank you, your Honor.

19 THE COURT: The Marshals may take these
20 Defendants into custody, and please bring out
21 Mr. O'Shea's client.

22 And Mr. Frey and Mr. Pelagalli, thank you
23 for appearing here.

24 MR. PELAGALLI: Thank you, your Honor.

25 THE COURT: And that will be all.

1 MR. FREY: Thank you, Judge.

2 MR. PELAGALLI: And Happy Holidays.

3 (Side bar held off the record.)

4 THE COURT: Mr. Miclaus, you have a right to
5 a detention hearing to determine if you should remain in
6 custody pending further order of the Court. You have
7 signed a waiver of the detention hearing with a
8 reservation of your right to have it at a later time
9 under the conditions that have been set forth there by
10 Mr. O'Shea and agreed to by the Assistants United States
11 Attorneys. Do you understand your right to a hearing?

12 DEFENDANT MICLAUS: Yes, your Honor.

13 THE COURT: And do you also understand the
14 reservation?

15 DEFENDANT MICLAUS: Yes, sir.

16 THE COURT: Is that your signature on the
17 waiver form?

18 DEFENDANT MICLAUS: Yes.

19 THE COURT: And did you consult with
20 Mr. O'Shea before you signed the waiver?

21 DEFENDANT MICLAUS: Yes.

22 THE COURT: You know you have a right to
23 have a hearing to determine if you should remain in
24 custody pending the detention order.

25 Anything further from the United States?

1 MR. BROWN: Nothing further, your Honor.

2 THE COURT: Anything further, Mr. O'Shea?

3 MR. PELAGALLI: Nothing further.

4 THE COURT: There being no further

5 business before the Court, we are adjourned,

6 and Happy Holidays, and Merry Christmas to everyone.

7 (Hearing concluded at 3:50 p.m.)

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10 C E R T I F I C A T E

11 I, George J. Staiduhar, Official Court
12 Reporter in and for the United States District Court,
13 for the Northern District of Ohio, Eastern Division,
14 do hereby certify that the foregoing is a true
15 and correct transcript of the proceedings herein.

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19

s/George J. Staiduhar
George J. Staiduhar,
Official Court Reporter

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